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SENATE

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CARPINTERIA AND MONTECITO WATER DISTRIBUTION SYSTEMS CONVEYANCE ACT OF 2003

JUNE 25, 2004.—Ordered to be printed

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 1648]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1648) to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma project, California, to the Carpinteria Valley Water District and the Montecito Water District, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 1648, as ordered reported, is to authorize the Secretary of the Interior to convey certain water distribution systems of the Cachuma Project, California, to the Carpinteria Valley Water District and the Montecito Water District.

BACKGROUND AND NEED

H.R. 1648 authorizes the Bureau of Reclamation to transfer title to certain water distribution systems of the Cachuma Project to the Carpinteria Valley Water District and the Montecito Water District. The Carpinteria Valley Water District and the Montecito Water District have operated and maintained the facilities proposed for transfer since 1956 and 1995, respectively. The Districts have worked closely with the Bureau to meet the necessary requirements relating to the transfer. In addition, the Bureau has entered into title transfer agreements with both Districts.

The bill proposes to transfer the distribution system located in Carpinteria, California, to the Carpinteria Valley Water District.

This system consists of 36 miles of pipelines and laterals; Gobernador Reservoir; Shephard Mesa Tank; Lateral 10L, Carpinteria and Shephard Mesa pumping plants; several pressure regulating vaults located throughout the system; fences and structures; and rights-of-way, easements, leases and other property permitting access to the Federal system. It is the Committee's understanding that the Carpinteria Valley Water District has made all required payments on its contract with the Bureau for construction of the Carpinteria system.

The bill also proposes to transfer the distribution facilities located in Montecito, California, to the Montecito Water District. These facilities consist of 9½ miles of pipelines and laterals; the Asegra Pumping Plant; Ortega Ridge Pumping Plant located on Ortega Ridge Road; pressure regulating vaults, fences and structures appurtenant to the distribution system; and rights-of-way, easements, leases, and other property permitting access to the Federal system. It is the Committee's understanding that the Montecito Water District will pay the remaining debt on its contract with the Bureau for construction of the Montecito system as a condition of conveyance.

The proposed transfer would apply only to lands and facilities associated with these facilities and would not affect the Districts' existing water service contract with the Santa Barbara County Water Agency nor the Federal Government's receipts from water deliveries under the contract. Also, the proposed transfer does not entail any new physical modification or expansion of the infrastructure.

LEGISLATIVE HISTORY

H.R. 1648, the Carpinteria and Montecito Water Distribution Systems Conveyance Act of 2003, was introduced by Representative Capps (D-CA) on April 7, 2003, and referred to the House Committee on Resources. The Resources Committee discharged the bill on November 17, 2003, and the House passed it under suspension on the same day. On November 18, 2003, H.R. 1648 was received in the Senate and referred to the Committee on Energy and Natural Resources. A hearing on H.R. 1648 was conducted by the Water and Power Subcommittee on May 19, 2004. The Energy and Natural Resources Committee, on June 16, 2004, by a unanimous vote of a quorum present, favorably reported H.R. 1648.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in an open business session on June 16, 2004, by a unanimous voice vote of a quorum present, recommends that the Senate pass H.R. 1648.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title.

Section 2(a)(1) authorizes the Secretary to convey all right, title, and interest of the United States in the Carpinteria Distribution System of the Cachuma Project in California, consistent with the terms and conditions set forth in Transfer Agreement Number 00-XC-20-0364.

Subsection (a)(2) authorizes the Secretary to convey all right, title, and interest of the United States in the Montecito Water Dis-

tribution System of the Cachuma Project in California, consistent with the terms and conditions set forth in Transfer Agreement Number 01-XC-20-0365.

Subsection (b) exempts the United States from liability for any damages relating to the distribution systems, except for damages caused by acts of negligence committed by the United States, its employees, or agents prior to the date of conveyance.

Subsection (c)(1) prohibits the conveyed water distribution systems from being considered part of a Federal reclamation project.

Subsection (c)(2) prohibits the water districts from being eligible to receive any benefits for any facility comprising such distribution systems, except benefits that would be available to a similarly situated person for such a facility that is not part of a Federal reclamation project.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 18, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1648, the Carpinteria and Montecito Water Distribution Systems Conveyance Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 1648—Carpinteria and Montecito Water Distribution Systems Conveyance Act of 2003

CBO estimates that implementing H.R. 1648 would have no significant impact on the federal budget. This act would direct the Secretary of the Interior to convey all rights, title, and interest of the federal government in the Carpinteria Distribution System to the Carpinteria Valley Water District and in the Montecito Water Distribution System to the Montecito Water District. Both of these water distribution systems are part of the Cachuma Project in Santa Barbara County, California.

The Carpinteria Valley Water District has made all required payments on its contract with the Bureau of Reclamation for construction of the Carpinteria system. The Montecito Water District still owes about \$7,000 for construction of its water distribution system and would be required to pay that sum as a condition of conveyance. Currently, the bureau spends less than \$5,000 every three years to inspect these water distribution systems. The next inspections will take place in 2005. Once these systems are conveyed, all operations and maintenance (including inspections) would be the responsibility of the districts.

H.R. 1648 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting H.R. 1648 would not affect direct spending or revenues.

On November 7, 2003, CBO transmitted a cost estimate for H.R. 1648 as ordered reported by the House Committee on Resources on October 29, 2003. The two versions of the legislation are identical, as are our cost estimates.

The CBO staff contact for this estimate is Julie Middleton. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 1648. The Act is not a regulatory measure in the sense of imposing government-established standards or significant responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 1648.

EXECUTIVE COMMUNICATIONS

On June 16, 2004, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior setting forth executive views on H.R. 1648. This report had not been received at the time the report on H.R. 1648 was filed. When the report becomes available, the Chairman will request that it be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Reclamation at the Subcommittee hearing follows:

STATEMENT OF JOHN W. KEYS, III, COMMISSIONER, BUREAU OF RECLAMATION

Good afternoon, I am John Keys, Commissioner of Reclamation. I am pleased to be here today to provide the Administration's views on H.R. 1648, legislation to authorize the Secretary of the Interior to convey certain Federally-owned water distribution systems of the Cachuma Project in California to the Carpinteria Water Valley District and the Montecito Water District. We strongly support this legislation and applaud the committee for considering it today.

Madam Chairman, H.R. 1648 would actually authorize two distinct title transfers, both of which are reflected in separate agreements that can be executed as soon as the authorizing legislation is adopted.

The proposed transfers would include the following facilities:

Carpinteria: The distribution system located in the City of Carpinteria, California. This system consists of 36 miles of pipelines and laterals; Gobernador Reservoir; Shephard

Mesa Tank; Lateral 10L, Carpinteria and Shephard Mesa pumping plants; several pressure regulating vaults located throughout the system; fences and structures; and rights-of-way, easements, leases and other property permitting access to the Federal system.

Montecito: These facilities, located in Montecito, California consist of 9½ miles of pipelines and laterals; the Asegra Pumping Plant (a deactivated pumping plant connected to a portion of lateral 3 located on Asegra Road); Ortega Ridge Pumping Plant located on Ortega Ridge Road; pressure regulating vaults, fences and structures appurtenant to the distribution system; and rights-of-way, easements, leases, and other property permitting access to the Federal system.

The transfer would apply only to lands and facilities associated with these facilities and would not affect the Districts' existing water service contract with the Santa Barbara County Water Agency nor the Federal government receipts from water deliveries under that contract.

Anticipated Benefits of These Title Transfers: We believe that these title transfers will enable the districts to gain greater local control of the distribution facilities that were constructed for their use. It will also eliminate the need for duplicative and unnecessary administrative obligations that exist for the Districts based upon the fact that title to the facilities is held by the United States. Once title is transferred, the district will no longer have to seek approval for easements, crossing permits, or any work on the facilities, required while these facilities are Federally owned.

For Reclamation, while we currently expend limited resources on these facilities, there is an important benefit as well. Upon title transfer, periodic inspections and the processing of paperwork that is currently required by Reclamation will no longer be necessary. We can redirect our resources to other priority activities.

Title Transfer Processes: The successful processes that we went through to complete these two title transfers have been cooperative, smooth, efficient and—most importantly—cost effective. The relationship and the process is a model for others to follow. Let me outline how that went:

Carpinteria: On March 4, 1999, the Carpinteria Valley Water District requested title to the distribution system referenced above, which they have operated and maintained since 1956. Upon receipt of that request, Reclamation and the District developed an agreement on responsibilities and costs for carrying out the title transfer process, spelling out who is responsible for which activities and how costs are distributed. The District and Reclamation signed it in December 1999.

On April 25, 2000, Reclamation and the District jointly held a public scoping session to solicit comments on the proposed transfer of ownership from United States to the District. No issues were identified.

Subsequently the District in consultation with Reclamation, completed activities pursuant to NEPA, the National Historic Preservation Act (NHPA), the Endangered Species Act (ESA), and the Fish and Wildlife Coordination Act, (FWCA). On August 30, 2000, a Finding of No Significant Impact (FONSI) was issued.

On September 19, 2000, in Carpinteria, California, Reclamation and the District held a public negotiation session to develop a title transfer agreement for the Federally-owned facilities (Agreement No. 00-XC-20-0364), which spells out the terms and conditions of this title transfer and is the basis of this section of the legislation.

Montecito: The process with the facilities to be transferred to the Montecito Water District resembled the one for Carpinteria.

On March 23, 1999, the Montecito Water District contacted Reclamation to formally request title to the distribution system used exclusively by them and which they have operated and maintained since 1995, when they assumed responsibility from the Summerland County Water District, who had operated the system since 1956.

In April 2000, the District signed a letter of agreement with Reclamation to address costs and responsibilities for the title transfer process.

On November 29, 2000, Reclamation and the District jointly held a public scoping session to solicit comments on the proposed transfer of ownership from United States to the District. No issues were identified.

Subsequently, the District, in consultation with Reclamation, completed activities pursuant to NEPA, the NHPA, the ESA, and the FWCA. On August 6, 2001 a FONSI was issued.

On March 15, 2001, in Montecito California, Reclamation and the District held a public negotiation session to develop a title transfer agreement for the Federally-owned facilities (Agreement No. 01-XC-20-0365), which spells out the terms and conditions of this title transfer, which is the basis of the transfer of these facilities in the legislation.

On March 26, 2001, the proposed draft Agreement was made available for a 30-day public review and comment period. No comments were received.

On April 24, 2002, Representative Capps asked Reclamation to help draft legislation to implement both the Carpinteria and Montecito agreements. On April 29, 2002, the Department of the Interior provided such a drafting service to Representative Capps.

GENERAL BACKGROUND ON RECLAMATION'S TITLE TRANSFER ACTIVITIES

Having explained why Reclamation fully supports H.R. 1648 and feels ready to carry it out, may I briefly update the committee on Reclamation's recent title transfer activities.

Since 1996, the Bureau of Reclamation has transferred title to sixteen projects or parts of projects across the west—pursuant to various Acts of Congress. Of those sixteen, Reclamation has been given authority by Congress to transfer title to thirteen projects or parts of projects since 2000, including the transfer of facilities and lands to the Fremont-Madison Irrigation District in Idaho which was passed by this Congress and signed into law by the President on September 30, 2003. Since each project is unique, each of the laws enacted by Congress has different terms, and each requires that different actions—such as the completion of the process under the National Environmental Policy Act (NEPA) or agreements with State and local agencies over recreation or cultural resources management be taken prior to transfer.

I am pleased to say that Reclamation has been moving expeditiously to implement each of these laws. Since May 2001, Reclamation has transferred nine projects, or parts of projects. This means that only three of the transfers that are currently authorized have yet to be implemented. Of those three, one (Humboldt) was adopted late in the 107th Congress, one (Wellton Mohawk) required that an EIS be completed and the transfer is expected to be completed in 2005, and one (Fremont-Madison) was adopted in the 108th Congress and is moving forward on schedule.

It is important to note that each of the completed transfers was done on time or ahead of our schedule and within the budgets that we estimated when we started. I commend the hard work and cooperation we have received from the water districts and entities who have been the recipients of these facilities as well as the other stakeholders who have been involved. I am also gratified by our staff's dedication to completing these transfers in a timely and cost-effective way.

CONCLUSION

As I conclude my remarks Madam Chairman, I would like to commend several people who worked hard to make these transfers possible. I would like to thank Representative Capps for working closely with us and with the District to move this legislation forward. Charles Hamilton, General Manager and Secretary of the Carpinteria Valley Water District, and Fred Adjarian of the Montecito Water District were absolutely instrumental in making this happen. They were creative and cooperative in identifying and solving issues even before they became controversial or problematic. Sheryl Carter from Reclamation's South Central California Area Office did an outstanding job coordinating this entire process for Reclamation.

In summary, Madam Chairman, we strongly support passage of H.R. 1648. It is a good bill, a good title transfer, and provides a benefit to both the Districts and to Reclamation. I urge the Committee to move this legislation.

That concludes my testimony; I would be pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 1648 as ordered reported.

